

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,

CIVIL NO. 1:00-cv-00315-SHR

JUDGE'S COPY

Plaintiff,

vs.

KENNETH D. KYLER, et al.,

Defendants -

U.S. DISTRICT JUDGE RUMMEL
MAGISTRATE JUDGE SMITH

FILED
HARRISBURG

JUN 08 2001

MARY E. D'ANDREA, CLERK
Per _____
DEPUTY CLERK

MOTION TO STRIKE DOCUMENTS SUPPORTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT AND BRIEF IN SUPPORT

COMES NOW, the Plaintiff & Plaintiff's Counsel in the above-entitled CIVIL ACTION, John Richard Jae, as a layman Unlettered in the Antics of the Laws & Legal Procedures within the United States & now files his Motion To Strike Documents Supporting Defendants' Motion for Summary Judgment And Memorandum In Support And Brief In Support, pursuant to Fed. R. Civ. P. 12(f), hereinafter who, avers, deposes & states:

The Motion

1. On or About October 17, 2000, Defendants, by counsel, filed their Motion for Summary Judgment and Statement of Disputed Facts, herein the above-entitled Civil Action.

2. On or About December 5, 2000, Defendants, by counsel, filed Memorandum In Support of Motion For Summary Judgment and the Documents Supporting Defendants' Motion For Summary Judgment, herein case.

3 - Plaintiff/PFP John Richard Jaenow presents motion
Strike Documents Supporting Defendants' Motion For
Judgment And Memorandum In Support And Brief In Support
of this case, and moves this court to strike such defendants' violation of Rule
~~12(b)(6) & 56(e)~~.

BRIEF IN SUPPORT

Plaintiff/PFP John Richard Jaenow avers & submits, that by
RCR R, Rules 12(b)(1) &(e) & 56(e), State, as follows:

12(b) How Presented - Every defense, in law or
fact, to a claim for relief in any pleading,
whether a claim, counter claim, cross claim or
third-party claim, shall be asserted in the responsive
pleading thereto if one is required, except that
the following defenses may at the option of the
pleader be made by motion:

- (1) lack of jurisdiction over the subject matter,
- (2) lack of jurisdiction over the person,
- (3) failure to state a claim upon which relief can
be granted, - - -

56(e) Form of Affidavits; Testimony; Defense Required.
Supporting and opposing affidavits shall be made
on personal knowledge, shall set forth such facts as would
be admissible in evidence, and shall show affirmatively
that the affiant is competent to testify to
the matters stated therein. Such unsworn certified
copies of all papers or parts thereof referred
to in an affidavit shall be attached thereto or
served therewith - - -

Defendants' Documents Supporting Defendants Motion For Summary Judgment and Argument Points II, of their Memorandum In Support of Motion For Summary Judgment, herein this case, violate Fed. R.Civ.P., Rules 12(b)(1)/(2) & (6) & 56(e), as set forth below, and as such contain material which is impertinent and scandalous matter and contains an insufficient defense, shall must be ordered stricken accordance with Fed. Civ. P.,^{Rules} 11(c)(1)(A) and 12(f).

The Documents supporting the Defendants motion for summary judgment, in this case sub judice, contain impertinent and scandalous matter as such documents are "not" sworn or certified copies of papers or parts thereof, such violate and run afoul of Fed. R.Civ.P. 56 and thus Defendants, by federal law, may not use or rely upon such and this Court, by federal law, must so such stricken and may not legally consider any of

Argument Points I and II of the Defendants' Memorandum In Support of Motion For Summary Judgment, in this case sub judice, contains material which is impertinent and scandalous matter and an insufficient defense as such same, by federal law, have been raised in a MOTION TO DISMISS. The Complaint, filed pursuant to Fed. R. Civ. P., Rules (b)(1)(2)&(6), however, Defendants did "not" do so herein this case, & thus, as a consequence, they "have" in proper procedure, have violated Fed. R. Civ. P., 12(b)(1)/(2); & thus, are, by federal law, banned from raising

all of that stated therein Argument Points I & II
their Memorandum ~~in support of motion for Summary Judgment~~, and this Court MUST follow & abide by the controlling Federal Law Pt has taken an
to uphold & strike Argument Points I & II, ~~Points~~
entirely from Defendants' Memorandum ^{Supporting} In opposition
Motion for Summary Judgment, herein this case, under
& pursuant to Fed. R. C.P.R., Rule 12(b)(1) (2) & (6) of Fed.
R.C.P. 11(e) (1) (A) for a violation of Fed. R. C.P.R. Rule 11(b)(2)

(w) HEREBEFORE, Plaintiff John Richard Doe, prayeth
this Court will enter an order striking the Document
Supporting Defendants' Motion for Summary Judgment
in their suit, pursuant to Fed. R. C.P.R. 11(c)(1)(A) or Fed.
C.P.R. 12(f), for Defendants' violation of Fed. R. C.P.R.
11(b)(2) & 6(e) and striking Argument Points I and II, of Defendants'
Memorandum In Support of Motion for Summary Judgment
in their entirety, pursuant to Fed. R. C.P.R. 11(c)(1)(A) or Fed.
C.P.R. 12(f), for Defendants' violation of Fed. R. C.P.R.
(2) & 12(b)(1) (2) & (6); based upon that stated & argued before
above supra:

AND HE SHALL EVER PRAY:
RESPECTFULLY SUBMITTED:

(s) John Richard Doe

MR. JOHN RICHARD DOE

Dated: 3rd JUNE 2001 = #BQ-3219

SCI-Greene ISMV
175 Progress Drive
Waynesburg, PA 15370-8089

Printed and P.D.F.

Jeters-Kyler, et al.,
CIV No. 1:CV-00-0315
CERTIFICATE OF SERVICE

I certify that on 6-05-01, I mailed to the person listed below a true & correct carbon copy of each of the Plaintiff's Motions & Documents Supporting Defendants' Motion For Summary Judgment, Memorandum In Support and Brief In Support, Motion For Stay And Brief In Support, Motion For Leave Of Court To File A Brief In Opposition To Defendants' Motion For Summary Judgment And Memorandum In Support Which Exceeds The Fifteen (15) Page Under M.D.L.R. 7.8 And Brief In Support and Motion For Order Of Requiring SCI-Greene Prison Officials To Return To This Plaintiff His Legal Materials, Court Case Files And Law Books And To Print Him With Enough Paper, Carbon Paper And Envelopes To Enable Him Meet Court Deadlines, Inter Alia Petition For Writ Of Mandamus And Brief In Support by U.S. 1st Class Mail, Postage Prepaid & addressed

MR. Michael L. Harvey, SDAO
OFFICE OF THE ATTORNEY GENERAL OF PENNSYLVANIA
15TH FLOOR - STRAWBERRY SQUARE
[REDACTED]

HARRISBURG, PA 17120

I certify that on 6-05-01, I gave to Prison Officials hereinafter to this Court, the originals of each of the above-mentioned documents.

I certify under penalty of perjury that the above, is true & pursuant to 28 U.S.C. § 1746.

Dated/Executed on:
5th JUNE 2001
At Waynesburg, Pennsylvania

(S)

John Richard J.
MR. JOHN RICHARD J.
#BQ-3219
SCI-Greene/SMU
175 Progress Drive
Waynesburg, PA 15370

Plaintiff and his Co-